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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,669	03/29/2001	Scott J. Tuman	54407USA4C.007	4980

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3M INNOVATIVE PROPERTIES COMPANY  
PO BOX 33427  
ST. PAUL, MN 55133-3427

EXAMINER

GALLAGHER, JOHN J

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 01/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/821669

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 17 SEPTEMBER 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 11, 13-15 and 21-40 is/are pending in the application.
- Of the above claim(s) 29-31, 33-34 and 38-40 is/are withdrawn from consideration.
- ☒ Claim(s) 11, 13-15, 21-28, 32 and 35-37 is/are allowed.
- ☒ Claim(s) 11, 13-15, 21-28, 32 and 35-37 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit 1733

1. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11, 13-15 and 21-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Zimmerman (already of record - see paragraph 4 of the last Office action) in view of Püschner et al. (newly applied).

Püschner et al. disclose a composite (zipper) forming process of the type and most similar to that of Zimmerman wherein it is further taught that (a) it is PREFERABLE (i.e. constitutes an improvement) in such processes to, instead of applying the thermoplastic fastener elements to the tape or web carrier or backing INDIVIDUALLY (i.e. one at a time or one by one), to apply a PLURALITY of such elements simultaneously; and (b) the fastener elements may be formed into any desired shape. (Figs. 1-6, column 1 lines 1-4, (N.B.) 17-20, 29-39 and 53-55, column 2 lines 1-12 and 43-44, column 3 line 15 thru column 4 line 22 (and N.B. column 3 lines 46-49), N.B. column 4 line 74 thru column 5 line 4, N.B. column 5 lines 16-44, claim 1). It would have been

Art Unit 1733

obvious to one of ordinary skill in this art to employ the multiple fastener attachment technique of Püschner et al. for its documented, beneficial function and result (viz. improvement - N.B. column 1 lines 33-39) in/in conjunction with the process of Zimmerman in place of the corresponding, analogous individual fastener attachment technique employed therein (i.e. for every fastener element 13 of Zimmerman, substitute a plurality or multiplicity of (connected) such elements as in Püschner et al.), especially in view of (and again N.B. column 1 lines 17-20 of this (secondary) reference). The following are additionally advanced: With respect to claims (a) 13-14, N.B. column 1 lines 21-23 of Zimmerman; (b) 23-24, the fabric (tapes) employed by the primary patentee are seen to be both fibrous and at least somewhat stretchable (and (therefore) elastic); (c) 26-27, the extent of coverage of the carrier fabric (of both applied references) with fastener elements is seen to be well within the purview of (i.e. obvious to those of ordinary skill in this art to determine and effect, depending e.g. upon the specific effect and/or application desired and/or envisioned; and (d) 15 and 28, the fastener elements of both of the applied references are seen to constitute (1) projections from the carrier fabric; (2) part of a mechanical fastener; and (3) hooks, in the manner envisioned by applicants i.e. consistent and in agreement with their

Art Unit 1733

specification at (and N.B.) page 4 lines 21-22, page 4 lines 29-30 and page 1 lines 14-18, respectively.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 32 and 35-37 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Melbye et al. This rejection (a) is adhered to essentially for the reasons of record, as set forth in paragraph 5 of the last Office action; and (b) would be effectively overcome by the insertion of the term "each of" after "in" in the last line of this claim (consistent with both (1) applicants' avowed intent; and (2) the amendment made and set forth in the last two lines of claim 11). Further regarding claim 37, N.B. paragraph 2(c), above.

5. In spite of the foregoing rejections, the Examiner feels that there is patentable subject matter present in this application at this point in the prosecution, and therefore claims 29-31, 33-34 and 38-40 are indicated as being allowable, with the caveat that yet another updated search may uncover art

Art Unit 1733

more pertinent than that already of record; in similar manner, claims 32 and 35-37 would also receive favorable consideration, with the further proviso that the matters as set forth in paragraph 4(b) above, are satisfactorily resolved.

6. Applicant's arguments with respect to claims 11, 13-15, 21-28, 32 and 35-37, filed 17 September 2002, have been considered but are deemed to be moot in view of the new grounds of rejection. See paragraphs 2 and 4, above.

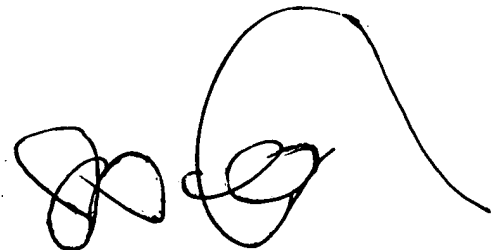
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. J. Gallagher whose telephone number is (703) 308-1971. The examiner can normally be reached on M-F from approximately 8:30 A.M. to 5 P.M. The examiner can also be reached on alternate N/A.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball, can be reached on (703) 308-2058. The fax phone number for this Group is (703) ~~305-3599~~ <sup>872-9310</sup>.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661/0662.

JJGallagher:cdc

December 18, 2002



JOHN J. GALLAGHER  
PRIMARY EXAMINER  
ART UNIT 1733